



Diversité: Challenging or constituting *laïcité*?

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Abstract

The debates on *laïcité* in France have been capped by a claim that French cultural imaginary *laïcité* has reasserted itself against the ‘new challenge of diversity’, this new challenge explicitly being contrasted to the *old* challenge of the Catholic Church. There have been plenty of references to the French Third Republic during these debates, yet these references fail to recognise that in fact the concept of *diversité* was part of the discussions on *laïcité* during the Third Republic. This is a historical fact that questions the distinction between old and new challenges. This article locates the concept of *diversité* in the parliamentary deliberations during the making of the ‘Loi du 28 Mars 1882 sur l’enseignement primaire obligatoire’ and the ‘Loi du 9 Décembre 1905 concernant la séparation des églises et de l’État’ and then compares the relations of *diversité* and *laïcité* at that time with their relations in contemporary France. The article lays out the move of *diversité* from a constitutive premise of *laïc* institutions in the Third Republic to challenging *laïcité*, and it explores the politics behind this move. I argue that *laïcité* has not been reasserted but rather has regressed in France.

Keywords

diversité, diversity, France, institutions, *laïcité*, secularism, Third Republic

Introduction

‘The new challenge of diversity’ is emerging as the dominant normative and analytical vantage point for approaching questions of secularism.¹ For instance, Charles Taylor, whose book *A Secular Age* (2007) set one of the reference points in current discussions on secularism, recently wrote: ‘We think that secularism (or *laïcité*) has to do with the relation of the state and religion; whereas in fact it has to do with the (correct) response of the democratic state to diversity’ (Taylor, 2011a: 36). And in book with Jocelyn Maclure, the authors emphasise the distinction between old institutional questions of

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secularism and new questions of diversity (Maclure and Taylor, 2011: 29). The debates over France are no exception to such a formulation of the question. There are numerous accounts that narrate the period from the headscarf affair in 1989 up to the 15 March 2004 law banning religious symbols in public schools as the reassertion of *laïcité* against the new challenges of diversity, and as further proof that French *laïcité* is a comprehensive doctrine (Rawls, 1993: 13). However, most of these accounts, deducing political positions on *laïcité* from the stance on the headscarf, overlook first the distinction between those who share the same stance on the headscarf but not the argument and, second, institutional movements in France concurrent with the ban on religious symbols. To begin with, there were at least two competing arguments against a legal ban on religious symbols. On the one hand, arguments were made from the generality of institutions in the name of *laïcité*: that is, public schools, the cornerstone of *laïcité*, have to be open to all. On the other hand, arguments were made from practices of self-realisation as constitutive of freedoms. In the case of institutional movements, a legal ban on the headscarf was accompanied by the rise in public Muslim infrastructure (the establishment of Muslim high schools and the Conseil français du culte musulman), and by a general push for religious infrastructure in the public sphere: namely, Nicolas Sarkozy's mobilisation of the Catholic Church, and developments by the National Ministry of Education in the teaching of religious facts in public schools.

A typical example overlooking this complex multi-layered political terrain is Taylor's analytical lens of the social imaginary. Taylor qualifies *laïcité* as a social imaginary, and comments on the 2004 French law as a reassertion of this social imaginary purifying public space of 'religious difference' against the new challenges of diversity (2011b: 306). His assessment highlights the exclusion of a *behaviour* from public space, overlooks concurrent *institutional* movements that include religion in public space and covers the complexity of political agencies in the whole episode.

John Bowen (2007) uncovers the complexity of political agencies in the struggles on the March 2004 law. Bowen's fieldwork illustrates much more than a *laïc*-Muslim opposition: the binary to which the 'new challenge of diversity' inevitably boils down. But his conclusion tends back to this binary. Bowen takes 'an anthropology of public reasoning' approach (Bowen, 2007: 3) and presents the multiple actions undertaken in the name of *laïcité* by laying out the complexity and diversity of subject positions over the headscarf question. However, after a hermeneutically committed exposition of the multiplicity of positions on *laïcité*, Bowen concludes that it remains an amorphous object, a 'narrative framework' (Bowen, 2007: 32) from which each political actor draws according to his/her politics (2007: 33). Bowen offers many intertwined narratives of moving subjects: individual and collective articulations that cut across the *laïc* versus Muslim binary opposition. But after this we are presented with the *real* fears of the French: sexism, communitarianism and Islamism, rooted in 'distinct strands of French self-understanding' (Bowen, 2007: 156). We are asked in conclusion to take an analytical turn, and are once more given, in softer form, the 'multicultural challenge' to France (Bowen, 2007: 248): in other words the French 'imaginary'. All the French whose public positions do not fit into this 'imaginary' fall out of the conclusion, the weight of their 'self-understandings' reduced only to a proof that the dominant view exists. What is swept aside by Bowen, before concluding what exactly happened in France, and what is not addressed in the assessment by Taylor, are the narratives of the French and the non-French Muslims who defended the 15 March law and the non-Muslim French who, in the name of *laïcité*, opposed the law, as well as those who held more composite political positions such as 'no' to the headscarf but 'yes' to the teaching of religious facts in public schools.

Such are some scholarly examples of how complexity gets enclosed in the idea of a national imaginary. A pertinent example of a political enclosure is the moment of crisis sparked by the *Charlie Hebdo* massacre. Some public positions in the aftermath of the massacre had this exact

tone: the historically continuous French imaginary is under attack. And this attack was from 'Islamist' violence, not from any violence. These voices either directly or indirectly triggered the affirmation of those who already tended to reduce the challenge to 'new diversity'. However, even at this moment of crisis, there was no monopoly of an imaginary. Reminiscent of Captain Alfred Dreyfus at the end of the nineteenth century (Burns 1999), police officer Ahmed Merabet was serving the French public when he was murdered by the *Charlie Hebdo* assassins. There were quite a few instances at the demonstrations following the massacre where the placard 'Je suis Ahmed' stood alongside 'Je suis Charlie'. Quite a few public intellectuals spoke out against Jean-Marie Le Pen's opportunism in framing the violent event as 'an episode in the war that is being waged against us by Islamism' (Gourevitch, 2015), suggesting that *Charlie* cartoons were 'imprudent' (Balibar, 2015) and that the journal's position on free speech had not been steady. In 2008, the editor Philippe Val fired cartoonist Siné when he refused to apologise for what Val felt was an 'anti-Semitic' cartoon on the marriage of Sarkozy's son. The important point here is that the French judiciary always sided with free speech. Interestingly, after the 2015 massacre, when solution-oriented statements started, the policy of moderate religion – e.g. the teaching of religious facts in schools – against the challenge of diversity was listed among possible solutions (Bowen, 2015).

I argue in this article that *laïcité* in France is in fact regressing vis-à-vis the Third Republic. This regression is visible if one lets go of Taylor's 'imaginary' approach which privileges snapshots of isomorphic relations between ideas and action, and Bowen's analytical turn of *laïcité* from a historical framework to a 'narrative framework' as the object of a politics of memory. Instead, this article looks beyond the headscarf to coterminous institutional movements. It considers all the contemporary multiplication of adjectives qualifying *laïcité* and returns to the political struggles in the making of the 'Loi du 28 Mars 1882 sur l'enseignement primaire obligatoire' and the 'Loi du 9 Décembre 1905 concernant la séparation des églises et de l'État' in the Third Republic. One cannot talk about a regression without a reference point for comparison. Here I take a historical reference point, and suggest that one cannot show this particular regression without breaking the isomorphic relation between ideas and actions assumed by the imaginaries framework. *Laïc* institutionalism emerged in the Chamber deliberations of the 1882 education law and the 1905 separation law as a liberal institutionalism taking institutions as ends in themselves: an overarching abstraction, a general doctrine à la John Rawls. This liberal institutionalism was defended with arguments taking diversity as a premise, over institutionalism which took institutions as means to certain ways of life. However, in contemporary France, *laïcité* is returning – regressing not in a normative but in a historical sense – to a synthesis of the many positions which were defeated in the making of the 1882 and 1905 laws. *Laïc* institutionalism is *de*-abstracted towards institutions as a means of supporting particular ways of life and grounded upon a more sociological understanding of diversity. Once this regression is laid out, the 'new state of diversity' vantage point, which is presented as the sociological condition eliciting the demands of 'reasonable accommodation', loses its distinctness from old institutional questions of *laïcité* as well as its 'self-evident' politics. This is because, as I show, diversity was a constitutive premise of the 1882 education law and the 1905 separation law, the two cornerstones of *laïcité*.

The idea of regression is scattered through the works of Jean Baubérot, although not articulated in the same way as I do here. When Sarkozy presented the distinction between *laïcité positive* and *laïcité négative* in Sarkozy (2004) and in his 20 December 2007 speech at the Lateran Palace in Rome (Sarkozy, 2007), he repeatedly referred to 'the Christian roots' of France, and grounded his defence of *laïcité positive* on the 'new multiculturalist challenge' (2007). Baubérot (2008) pointed out that adding new adjectives to *laïcité* on the grounds that France had become more diverse was not very convincing, because

at the turn of the nineteenth and twentieth century, French had various (*diverses*) convictions: There were materialist or spiritualist free-thinkers, Jews and Protestants of various tendencies, and they were linked to Catholicism in a hundred different ways. (Baubérot 2008: 194)²

He could have also added the Muslims in Algeria. Baubérot points out that a process counter to that which resulted in the 1905 separation law is underway under a claim of French exceptionalism (Baubérot, 2007). *Laïcité* is turning into a matter of identity and way of life rather than a principle that is articulated at the level of general institutions of society (Baubérot, 2009).

Recently, Baubérot (2015) has offered seven Weberian ideal types of *laïcité* in France, distinguishes between ‘the social’ and ‘sociological’ usages of terms, and claims that ‘the typologies of *laïcité* allow us to detect continuities and observe undeniable novelties’ (Baubérot 2015: 133). He builds these typologies to argue for ‘the sliding of *laïcité*’ from left-wing to right-wing politics in the past decade in France (2015: 133). Although he acknowledges that the re-conceptualisations of *laïcité* are also part of the political struggle, he does not follow further the genealogical line of inquiry (Asad, 2003) that strips the typology categories produced by the social scientist of their exogenous status, and takes them as endogenous parts of the political struggle. In the case of ‘open *laïcité*’ for instance, one of the seven types he identifies, Baubérot underscores that there are ‘three distinct social usages’ of the term. However, he continues by asserting a definition ‘regardless of whether the actors do or do not use the expression (an essential point), what I call “open *laïcité*” is a type of *laïcité* generally taken up by those groups or individuals who identify with a religion’ (Baubérot, 2015: 93–4). Such a definition completely misrepresents the authors of the public letter ‘pour une *laïcité* ouverte’ (Brunerie-Kaufmann et al., 1989) written during the 1989 headscarf affair. This letter defended keeping girls in headscarves in the classroom not from the point of view of religion (as self-realisation) but from the point of view of the institution of public education, in exactly the same way that Baubérot himself had voiced his dissent in the Stasi Commission in 2003 (Baubérot 2003): in other words from the historical core of *laïcité* in France and not in the name of ‘reasonable accommodations’.

Such an imposition of definitions, rather than following the hermeneutical trail, e.g. Weber’s ‘*verstehen*’ approach, or the genealogical trail, ends by attributing a relative arbitrariness to the choice of definition. An alternative route is to examine the politics of these flourishing (re-)conceptualisations of *laïcité* in context. In his comparative book on France and Quebec, Baubérot presents the discussions on *laïcité* in Quebec as ‘in advance’ of the French debate, because concerns of ‘inter-cultural’, ‘diverse’ society and related ‘reasonable accommodations’ are present in the Quebec debate. For him, Quebec faces the question of ‘diversity’ more directly through deliberations and negotiations, and he seems to suggest that if the French also looked back to the founding laws of *laïcité* in the Third Republic they would realise that deliberation and negotiation, rather than the imposition of models, is the rule. However, here while reading reasonable accommodations into the Third Republic, he misses the point, which I show in this article, that the ‘premise of diversity’ belonged to the core of the political equilibrium behind the founding laws of *laïcité* in the Third Republic and not to its ‘reasonable accommodations’. In fact ‘the sliding of *laïcité*’ from left-wing to right-wing politics that he aptly diagnoses issues precisely from a change in the relation of diversity to institutions, a change mainly embraced by the right in contemporary France but also by part of the left.

The concept of ‘diversity’ in the Third Republic

I draw a quick sketch of the arguments mobilised for and against the two constitutive laws of *laïcité* from the French Chamber of Deputies, commission reports and newspapers. The ‘Loi du 28 Mars 1882 sur l’enseignement primaire obligatoire’ did not include religious instruction in the public school curriculum, and instead provided a free day during the week for those parents who wanted

their children to receive religious instruction outside school. The law was one among the many acts of the *Républicains opportunistes* (Mayeur and Rebérioux, 1984: 72) who dominated the parliament in the 1880s. Jules Ferry, a *Républicain opportuniste*, known as the architect of the education laws, served as Minister of Education and as Prime Minister in the government between 1879 and 1885. The 'Loi du 9 Décembre 1905 concernant la séparation des églises et de l'État' was passed by parliament during the Émile Combes government. The law ended the French state's Concordat³ with the Catholic Church under which Catholicism was recognised as the majority religion and the state paid the salaries of clerics.⁴ At both times, republicans who were defending the state's institutional religious neutrality triumphed over political actors who expected the state to mobilise or demobilise religion.

The parliamentary commission set up to discuss a new education law presided over by Paul Bert,⁵ submitted its report, 'La loi de l'enseignement primaire (Proposition Barodet): Rapport présenté à la Chambre des députés', to the Chamber on 6 December 1879. The Bert Report defended free, compulsory and *laïque* education (Bert, 1880: 7) and more than half of the section 'General Principles for the Law' was reserved for explaining why religious instruction was optional (Bert, 1880: 15–31). This question was debated in the Chamber on 17, 19, 21, 22 and 24 December 1880. The struggle in the Chamber was between monarchists (Union des droites) who opposed the entire law; governing republicans of various shades who gathered together as *Républicains opportunistes* and wanted to exclude religious instruction from the curriculum, favouring a time slot during the week for those parents who wanted their children to receive religious instruction outside of school hours and grounds (some of these *Républicains opportunistes* defended the idea of God and religious morality freed from specific religious tradition to be part of the required curriculum); and the left who wanted to eliminate religious instruction from public school altogether. The *Républicains opportunistes* dominated the parliament and therefore their plan was passed.

Liberty of conscience, mutual respect and tolerance were the first reasons in the Bert Report for not including religious instruction in the compulsory curriculum. What is quite striking for contemporary debates differentiating between old and new questions of *laïcité* is that how to address a student body that was diverse, religiously as well as in other respects, was a central question for the architects of the law. I quote from the report:

[The State] assures the father of the family that nothing will be taught which can undermine the liberty of conscience of his child. That is to say, 'religious instruction', has to stop being a part of the programme of our public schools, or, at least be given only to children whose parents would have made a special request ... if religious instruction has to be maintained as compulsory in public school ... it will be necessary ... to have in each village within the reach of parents a school for each *culte* recognised by the state. This is the system that the law of 1850 [the Falloux law] had seemed to adopt, but that it had skilfully restricted to *communes*⁶ where the different *cultes* are publically professed, which suppresses all guarantee for scattered Protestants and Israelites ... we would oppose ... the establishment of those separate schools for each *culte*; because that separation gives birth to and develops, in the early ages in the mind of the child, the idea of sect with hostile sentiments, passions which have formidable consequences for public peace. *It is good and necessary that the children of Jews, Christians, and free-thinkers encounter each other on the same benches and make a habit of mutual respect and tolerance.* (Bert, 1880: 15–17, emphasis added)

The report found the principles of 'liberty of conscience' and what it called 'law of majorities' to be in conflict:

It is necessary above all that a religion does not invade this education in the name of the majority. Because, we are here in the domain of conscience, at the threshold of which the law of majorities stops. (Bert, 1880: 17)

The report addressed the criticism that a law on compulsory public primary education would create 'atheist schools', and 'chase God from school', thus undermining liberty of conscience and eliminating moral instruction altogether. The report found this 'liberty of conscience' criticism paradoxical, pointing to history and the recent papal encyclical, *Syllabus of Errors* as evidence (Bert, 1880: 20), and stated that this criticism did not 'really merit a response. What we chase from the school is intolerance' (Bert, 1880: 20). The report underlined as the 'capital objection' to the proposed law the criticism that suppressing religious instruction is suppressing moral instruction, and remarked that, 'this claim has been in all times that of all religions; but none has proclaimed it more loudly than the Catholic religion, which declares that outside of the minority it represents, there is nowhere and there has never been any morality on earth' (Bert, 1880: 22).

In the Chamber discussions 'neutrality', 'diversity' and 'law of majorities' emerged as the key ideas defining the political field. 'Neutrality' was at the centre of the discussion, and the main axis of debate was set between those political actors arguing from the 'premise of diversity' for institutional neutrality and those arguing from 'law of majorities' against it.

In the 24 December 1880 session of the Chamber, Ferry took the floor in order to address the question of the neutrality of the school from a confessional point of view:

Our adversaries would like the primary school teacher to be, in certain cases, the *répétiteur* ... but in these conditions and if they do not aspire to anything else ... if their intentions do not go further, is it necessary to declare religious education compulsory? ... In the domain of full liberty, outside of official rules, outside of duties prescribed by regulations, outside of class hours ... who can prevent from this side of the Chamber [the speaker points the left] a congregationalist primary school teacher from reciting the catechism to his students? Surely, nobody. (*Journal officiel*, 1880: 12791)

'It is not at this point that we disagree', continued Ferry; 'there is liberty in the law', but Charles-Émile Freppel, a member of the monarchist group Union des droites wanted 'religious instruction to be part of the mandatory programme' with 'a reason which appears quite strong, because it bases itself on numbers: it is the arithmetic of majorities' (*Journal officiel*, 1880: 12791). Ferry continued:

It is always by the *argument of majorities* that all the conquests made by liberty of conscience in our country have been demolished ... it is an argument of oppression ... the argument of the majority is like the religion of the majority, which resembles ... the religion of the state. (*Journal officiel*, 1880: 12791, emphasis added)

Freppel intervened and remarked under protestations from the left and the centre that the proposed public primary school is still 'school without God' (*Journal officiel*, 1880: 12797). He argued that the statement,

we do not deny God, we do not affirm him, we are simply not concerned with him ... is the proper formula of positivism applied to primary education. [Various benches from left and centre exclaimed 'that is the *laïque* school!'].]

He asserted:

on this major point, abstention is impossible; because according to whether one believes or does not believe in the existence of God and in the immortality of the soul, human life and thought take another path altogether. In such a case, and on the part of the primary school teacher, silence is equivalent to negation. (*Journal officiel*, 1880: 12678)

His position in the 22 December 1880 Chamber session, two days before Ferry's response cited above, was representative of many others from Union des droites. He argued from the 'law of majorities' and maintained that 'all rights will be safeguarded: that of the majority by religious education; that of the minority by exemption and abstention' (*Journal officiel*, 1880: 12677). Freppel continued by asserting the necessity of the school teacher and the student to be from the same *culte* (*Journal officiel*, 1880: 12677). He emphasised that if the 'law of majorities' was compromised by rights of minorities, then everybody would ask for something, including the socialists (*Journal officiel*, 1880: 12677).

There were also some republicans who wanted to maintain religion not in the form of a particular tradition, but as a general notion as part of the required curriculum. For instance, Pierre Henri de Lacretelle (a member of the political group Union républicaine within the Républicains opportunistes) proposed an amendment: 'the general notions about the existence of God independent of all dogma, about the immortality of the soul, about the organic principles of republican government will be given to students of both sexes starting at ten years old' (*Journal officiel*, 1880: 12683). Lacretelle was a defender of free and compulsory public education. Yet he pointed out that there were republican and spiritualist freethinkers in France: 'I have often been tired of hearing the great word "God" pronounced exclusively by the right ... God also belongs to us, it belongs to the Republic [laughs to the right]. (*Journal officiel*, 1880: 12683). He explained:

Mr. Paul Bert ... seemed to be saying that I demanded that primary school teachers give long lectures to the children on the existence of God and on the immortality of the soul ... I have had in no way that idea. I believed that it was moral, that it was necessary to put, like the seeds for the future, germs of those great principles in the spirit of a child who would later on be a soldier and a citizen ... we improve the moral physiognomy of the Republic by inserting the word 'God' in a law that we make for the people. (*Journal officiel*, 1880: 12683).

His amendment was rejected.

Similarly, in the making of 'Loi du 9 Décembre 1905', a debate flared up between those arguing from the 'premise of diversity' for institutional neutrality and those arguing from the 'law of majorities' against it. In the making of this law two other axes of struggle that were already present in the 1882 law debates emerged more vividly: (1) religion as a general category versus as the designation of particular faiths; (2) general institutions as ends in themselves versus as means to particular ways of life. The 1902 elections determined the Chamber that debated the separation law. Six political groups dominated the 588-member assembly: Gauche radicale (87 seats), Radical socialiste (94 seats), Socialistes parlementaires (32 seats), Union démocratique (50 seats), Républicains progressistes (64 seats), Action libérale populaire (52 seats).⁷

The report on separation by Aristide Briand (of Socialistes parlementaires), *La séparation des Eglises et de l'Etat: rapport fait au nom de la commission de la Chambre des députés* (Briand, 1905), submitted to the Chamber on 4 March 1905, was explicitly premised on diversity; part of its introduction read: 'it is not for satisfying political grudges, or for hate of Catholicism, that we demand the complete separation of churches and state, but in order to institute the only regime where peace can be established between followers of *diverse beliefs*' (1905: 3, emphasis added).

The political Catholic group, Action libérale populaire (ALP), the main group opposing institutional separation, argued from the law of majorities against neutrality. In an article published in *Le Figaro*, ALP's leader Albert de Mun stated: 'No! I do not believe at all in the neutral state in matters of religion, that is to say, apparently, the state does not recognise any religious *culte*' (Mun, 1905: 56, emphasis added). Mun's remarks are crucial not only for understanding the ALP's opposition, but also as a vantage point from which to look at today's philosophical scepticism about

neutrality. Mun did not take neutrality as a comprehensive doctrine, but as a practical and institutional one. And he did not embrace a different *meaning* of neutrality: in fact, he understood neutrality in the exact way that socialists of that time understood it – as no funds or any other kind of recognition for any religion. He was just against ‘neutrality’, and his approach to religion often explicitly underscored its utility for making governable subjects (Mun, 1905: 106–7).

The ALP voted *en bloc* against the separation law. However, the political group that comprised the largest section of the ‘no’ vote was the *Républicains progressistes*. They demanded precision in the law for returning property from the state to religious communities. This meant a guarantee that the property was returned ‘to those associations that will be in communion with bishops, submitted to episcopal authority and created by it’ (*Journal officiel*, 1905: 1607). The commission led by Briand had already revised the relevant article of the law, Article 4, in order to give some guarantee that the return of property would not be carried on for the purpose of weakening ecclesiastical hierarchy – the fear of ‘schism’ was pronounced in the chamber by pro-Catholics – by specifying that the return would be made ‘*en se conformant aux règles d’organisation générale du culte dont elles se proposent d’assurer l’exercice*’. Alexandre Ribot, the leader of the *Républicains progressistes*, demanded a clarification on this new amendment in the chamber on 20 April 1905; and in the end he remained unconvinced that it offered sufficient guarantee for the Catholic hierarchy and voted against institutional separation.

Briand’s clarification first stressed that statements treating France as a Catholic majority country missed the diversity of religious establishments, and then he articulated an argument against more precision in the law, underscoring the distinction between particular cases and general laws:

We have not wanted to design the rules too strict and too precise for the judges, because we do not only have in mind the case of schism, which has preoccupied especially the defenders of the Church. We thought that in the future the legislator would find himself in the presence of infinite cases, extremely varied. (*Journal officiel*, 1905: 1607–8)

Moreover, according to Briand, more precision in the law would actually interfere in the internal matters of the Catholic religion:

In demanding from us more precision again, one would risk leading an attack on the liberty of the Catholic community (*collectivité*). What we want is that in a regime of separation this community (*communauté*) could evolve freely. And also, without separating itself from its general organisation ... If the community of the faithful as a whole can, thanks to the liberties that we will leave to it, exercise a certain pressure on the ecclesiastical hierarchy ... do we have to make an obstacle to that possibility? [‘Very good! very good!’]. (*Journal officiel*, 1905: 1608)

Having highlighted some of the arguments and axes of struggle in the making of these two cornerstone laws of *laïcité*, it is clear from the debates that ‘diversity’ is not new to France, and in fact ‘diversity’ was one of the constitutive premises of the institutions of *laïcité*. How are we then to account for the developments in contemporary France, if *diversité* is historically not foreign to French institutions?

The pluralisation of *laïcité* and diversity

Many claims to a new *laïcité* have been made in France in the past few years. During the 1989 headscarf affair, a public letter by a group of intellectuals and scholars, ‘Profes, ne capitulons pas!’ (Badinter et al., 1989), was opposed by another letter ‘Pour une *laïcité* ouverte’ (Brunerie-Kaufmann et al., 1989). In 2002, a report to the Minister of National Education, *L’Enseignement du fait*

religieux dans l'École laïque (Debray, 2002), based its argument for the teaching of religious facts in schools on a distinction between *laïcité d'intelligence* and *laïcité d'incompétence*. In 2003, the Stasi Report declared a new *laïcité*: 'France today is the most diversified in the spiritual plane among European countries' (Stasi Commission, 2003: 17). Therefore '*Laïcité* today is facing the challenge of forging unity while respecting the diversity of society' (2003: 18). Sarkozy (2004) himself, when discussing his preference for a change in the 'Loi du 9 Décembre 1905', argued that a certain kind of *laïcité* – namely, a *laïcité positive* – would defend state support for building religious infrastructure.

I argue that in contemporary France, sometimes embedded in and sometimes hidden by pluralising *laïcité* with new adjectives, we are witnessing, at least, reversals in two dynamics constituting the institutional relations in the Third Republic: a turn away from 'diversity' as a premise towards 'diversity' as a sociological category in grounding institutions, and from religion as a general category towards religion as particular faiths. And both of these reversals lay the foundation for a push for religion at the institutional level, and the regression of *laïcité* from the general institutional level it attained in the Third Republic to a way of life.

The triple movement in contemporary France

Can the 'girl in the headscarf' bear the weight of all the politics of religion, *laïcité* and institutional change in France, or in Europe at large? Is it that whatever happened, happened because institutions responded to the girl in the headscarf as 'the new challenge of diversity'? Even the various events and positions on the ban I can quickly list are sufficient to show that the public debate over the ban was not simply split between the French *laïc* and the French Muslim. These would include: the girl in the headscarf losing the right to her high school diploma just a year from graduation; teachers going on strike against her; school officials considering the advice of a mosque on the controversy; a political right against the girl in the headscarf in school but in favour of building mosques, Muslim organisations, and Muslim high schools; a political left against her, but in favour of teaching religious facts in public schools; bishops and rabbis defending the girl, while Al-Azhar University, the Conseil français du culte musulman (CFCM) and the Union des Organisations islamiques de France (UOIF) sought a ban; a commission of experts – the Stasi Commission – instead of public discussion; a national law instead of case-by-case decisions (*affaire d'espèce*); ministries and high councils instead of school councils; and the small group of leftists standing in her defence against this farce, with the weight of *laïcité*'s history on their side, but stigmatised as 'Islamist' and 'multiculturalist'.

The legal ban on religious symbols in schools was accompanied at least by two other movements: the rise in public Muslim infrastructure (the establishment of Muslim high schools and the CFCM) and a general push for religious infrastructure in public space (mobilising the Catholic Church, calling for the teaching of religious facts in public schools). I have analysed the ban and the rise in Muslim infrastructure in depth elsewhere (Akan, 2009), and have shown that this double movement, 'the exclusionary ban on religious symbols and the inclusionary new identity-specific Muslim institutions' (2009: 239) is a restructuring rather than a reassertion of *laïcité*. Here I would like to focus on the third movement, a general push for religion infrastructure in public space with *laïcité positive* and the teaching of religious facts in public schools.

Laïcité positive and the mobilisation of the Catholic Church

Nicolas Sarkozy (2004) backed up his preference for state support for religious infrastructure with the concept of *laïcité positive*: 'a *laïcité* which guarantees the right to live one's religion like a fundamental personal right' (Sarkozy, 2004: 16). In his speeches in the Lateran Palace on 20

December 2007 and in Riyadh, Saudi Arabia, on 14 January 2008, the content of Sarkozy's *laïcité positive* found expression in clearer words. The Lateran speech made his effort in forging consent for the CFCM in 2003 look like a pretext for opening the way for religion in general, and particularly for Catholicism to be recognised as a moral bond of society. 'Positive *laïcité*' resonated the most with Catholic organisations. This was acknowledged by the French government website, which declared France a laboratory for Vatican politics:

The organisation in Paris, at the Pope's initiative, in March 2011, of a dialogue with non-believers in the 'Parvis des Gentils' (Court of Gentiles) highlights our country's test role, perceived as particularly secular, as part of the new evangelisation of Western Europe that Benedict XVI wants to launch. (Ministry of Foreign Affairs, 2013)

Behind the facade of references to diversity and acclaim for a new meaning of *laïcité*, there seemed to be nothing new in Sarkozy's speech, just the old game of the social mobilisation of religion at large, in the spirit of the 1850s Falloux laws. In his speech, he claimed that Christianity is at the root of the arts, culture, history, hopes, and morality in France. He alluded to the 'Muslim question' in claiming that 'French citizens are from many more diverse convictions than before' (Sarkozy, 2007). Sarkozy continued with the 'Christian roots of France' and how that religious heritage is a 'cement of national identity', and he even went as far as to include reference to the nineteenth-century *concordataire régime*, when he stated that 'the Catholic religion is our majority religion'. He complained that theology diplomas do not get the respect that they should. He framed the problematic as finding a way to combine the 'Christian roots of France' and *laïcité*, and his way was '*laïcité positive*' (2007). His Lateran Palace speech conveyed a theme that was already in his 2004 book on the relation between morality, religion, hope, poverty and governance:

But a man who believes is a man who hopes. And the interest of the Republic is that there would be a lot of men and women who hope. The gradual disaffection of rural parishes, the spiritually deserted suburbs, the disappearance of patronage, the penury of priests, have not rendered the French very happy ... if a human morality independent of religious morality incontestably exists, the Republic is concerned that a moral reflection inspired by religious convictions also exists. (Sarkozy, 2007)

In his speech at the Élysée Palace on 12 September 2008, Pope Benedict, who had arguably coined the term '*laïcité positive*' even before President Sarkozy, also expressed appreciation for this new meaning of *laïcité*:

You yourself, Mr President, have used the fine expression '*laïcité positive*' to characterise this more open understanding. At this moment in history when cultures continue to cross paths more frequently, I am firmly convinced that a new reflection on the true meaning and importance of *laïcité* is now necessary. In fact, it is fundamental, on the one hand, to insist on the distinction between the political realm and that of religion in order to preserve both the religious freedom of citizens and the responsibility of the state towards them; and, on the other hand, to become more aware of the irreplaceable role of religion for the formation of consciences and the contribution which it can bring to – among other things – the creation of a basic ethical consensus in society. (Pope Benedict, 2008)

Sarkozy's 2008 Riyadh speech repeated many of the points from his 2004 book and the 2007 Lateran Palace speech. It emphasised diversity:

a civilised politics, is a politics of diversity ... It is a value that I wanted respected in France in creating the Council of the Muslim Faith (*culte*). It is the value that has inspired me when I wanted to facilitate the construction of mosques in France. (Sarkozy, 2008)

This claim of diversity in the name of ‘accommodating’ Islam, however, was not simply a politics of accommodation, but rather a part of his wider scheme of state infrastructure for more religion, a political position which was precisely defeated by the Third Republic political equilibrium behind the laws of 1882 and 1905. It comes as no surprise that his 2004 book has for an epigraph a statement from Alexis de Tocqueville on the necessity of religion for the republic.

Pondering another institutional change by splitting hairs: teaching religion as ‘fact’ or as ‘culture’ but not as ‘faith’

The first report on teaching religious facts in schools was commissioned by the Socialist Minister of National Education, Lionel Jospin in 1988 (Joutard, 1989). The second report, *L’Enseignement du fait religieux dans l’École laïque* (2002) written by public intellectual Régis Debray – a member of the Stasi Commission who supported the law for a ban on the wearing of religious symbols in schools – was commissioned by the Socialist Minister of Education Jack Lang while Jospin was Prime Minister and during the presidency of Jacques Chirac. The report suggested ‘a reasoned approach to religions as facts of civilisation’ (Debray, 2002: 3). It began by explaining that:

the goal is not to put ‘God in school’ but rather to prolong the human itinerary characterised by multiple paths, as far as its *cumulative continuity* –that one can also call *culture* – that distinguishes our animal species from others less fortunate. Religious traditions and the future of the humanities are in the same boat. (Debray, 2002: 5, italics in original)

It is noteworthy to highlight the distinctions here between ‘God in school’, an obvious reference to the Third Republic discussions, ‘religious facts’ and ‘culture’, which recall also Sarkozy’s (2004) distinction between religion ‘as such’ and ‘as culture’. When confronted with the fact of declining religious practice in France, including among Muslims, against his defence of *laïcité positive*, Sarkozy stated that ‘religion is not simply a *cultural* [of religious faith] phenomenon. It is also an element of cultural identity’ (Sarkozy, 2004: 23), meaning that the French state should still invest in religion.

The Debray Report continued to carve out a non-religious space for religion: ‘the teaching of *the religious is not religious teaching*’ (Debray 2002: 9, italics in original). Instead of teaching that ‘presupposes the incomparable authority, above all others, of the revealed word’, it suggested the possibility of ‘a descriptive approach, factual and notional of religions in the present, in their plurality from the Far East to the Occident without trying to privilege one over the other’ (Debray, 2002: 10). Rather than pushing religion as a specific discipline and course, which the report argued would render it ‘a decorative place ... like the music course’ (Debray, 2002: 17), it should become a part of all relevant courses such as history of art, history of science, liberal arts and humanities. And, according to Debray, this was not in contradiction to *laïcité* because ‘*laïcité* is not a spiritual option among others, it is that which makes their coexistence possible’ (Debray, 2002: 19). This was neither a *laïcité plurielle* or *laïcité ouverte*, but rather, in his own words, a *laïcité d’intelligence* as opposed to *laïcité d’incompétence* (Debray, 2002: 21).

On 8 August 2002, a Union pour un mouvement populaire (UMP) party senator posed a written question to the UMP Minister of Youth, National Education and Research, Luc Ferry, asking him to clarify what he planned to do with the Debray Report. The minister answered on 23 January 2003, when he spoke in appreciation of the Debray Report and praised the 5–7 November 2002 French National Ministry of Education colloquium on the teaching of religious facts in schools. President Jacques Chirac sent a written message for the opening of the colloquium. It welcomed the efforts of the colloquium and the founding of the European Institute for the Sciences of

Religions, underscoring that 'strengthening the knowledge of religions ... will strengthen the spirit of tolerance among our young fellow citizens, giving them the better means to respect the beliefs and cultures of others'. After reading the president's message, the minister responsible for school teaching, Xavier Darcos, followed with his own opening speech and concluded that 'teaching religious fact ... is not, to take up an expression of Régis Debray, "to put back God in school"'.

What is crucial to note and often goes unnoticed by those eyes fixed on the 'girl in the headscarf' is that one political position in France brought together and defended both the teaching of religious facts and the ban on the wearing of the headscarf in schools. For instance, a few months before it was passed, Minister Darcos addressed the 15 March 2004 law on public television and was clearly against the wearing of the headscarf, although his testimony in front of the Stasi Commission did not approve making a national law for this purpose (France 2, 2004). Debray himself was a member of the Stasi Commission, and in the 1989 headscarf affair Debray was a signatory of the petition against the headscarf. Although Debray, during the conference on 5–7 November 2002, strove to qualify what he meant by religious 'fact', a collection of essays (Sirat et al., 2003) on the Debray initiative showed clearly that different religious leaders and intellectuals understood and expected different things from the 'teaching of religious facts'.

A previous Chief Rabbi of France, and currently the UNESCO chair of the Knowledge Exchange between Religions, René-Samuel Sirat, started his essay by quoting from the Talmud and from Genesis in order to underscore the importance of education in religion. Frequently referring to the need to study and practise the 'word of God' (Sirat, 2003: 13) and of religion as a force against a culture of consumption and violence, he underlined the richness of the Islamic tradition (2003: 14) and how the youth of the suburbs have a right to 'know the fundamental values of their religion'. He cited the Qu'ran to underscore that there is no compulsion in religion in Islam (2003: 15). Then he delved into the subject of who would teach. By that point the teaching of 'religious facts' had already become the 'teaching of religions' (2003: 22), and treated as a separate 'course' that should be taught by those who have an 'empathy for the subject' to all students, be they believers or non-believers, and 'ethics must be ranked as the first preoccupation' (2003: 20).

Philippe Capelle, a philosopher at the Catholic Institute of Paris, who had also been in charge of coordinating the Catholic chaplains in public education in northern France, started out his essay (2003) with the 'law of majorities' argument bolstered by some public surveys in 2002 that suggested that a majority of the French public thought of religion taught in schools as a good thing (Capelle, 2003: 39). He then elaborated scientific, political, pedagogical and institutional reasons in defence of teaching religion in school. Capelle's own conclusion was that 'fractures in knowledge' led to 'socio-ethnic, political and religious' fractures, and the state had to address the issue and could not leave the teaching to non-state actors (2003: 42). In a friendly critique of the Debray Report which had put aside religious institutions of higher education in its initiative, Capelle called on the Catholic institutions of higher education especially, for they had a history of dealing with the boundaries of science, religion and *laïcité* (2003: 47–9).

Dalil Boubakeur, the rector of the Great Mosque of Paris, and in 2003 the president of the CFCM, claimed to speak 'in the name of French Islam'. He clarified that it was not a question of modifying the Ferry laws, but 'there isn't a dichotomy in the life of individuals, there isn't *laïque* on one side and religious on the other' (Boubakeur, 2003: 57). He emphasised that the teaching of religion would ignite philosophical reflection (2003: 59). With frequent references to God throughout the text, and emphases on 'the teaching of religious facts' not only as descriptive teaching but also including a focus on spiritual and transcendental experience, he concluded with religion as a source of morality, love of others and tolerance (2003: 60–2).

Rector Philippe Joutard underlined that the teaching of religious facts was not only necessary for understanding one's past and heritage, but also in the twenty-first century religion had become

a ‘powerful factor of identity and acculturation’ (Joutard, 2003: 81). This brief review of statements on the Debray initiative shows that each translated ‘the teaching of religious facts’ significantly differently from its original ‘factual’ focus, attesting that religion as a subject itself implies different things to different people, and sometimes radically so. Taking note of the variety of understandings of the ‘teaching of religious facts’ in these essays suggests that the Debray Report opened up a Pandora’s Box.

A module of ten hours per year on ‘the philosophy of *laïcité* and instruction about religion’ has already been introduced in teacher training colleges (Willaime, 2007: 96), signalling the advance of a state project for the teaching of ‘religious facts’.

Conclusion

I have argued that real and proposed changes in some of the institutions of *laïcité* in contemporary France are regressions from the direction *laïcité* was heading in the Third Republic, rather than reassertions against the new challenges of diversity. This article has captured these regressions by documenting particularly how in the Third Republic the ‘premise of diversity’ in defence of institutional neutrality was posed strictly against those arguing from ‘law of majorities’ against institutional neutrality. That is to say, a concern with diversity is neither new in France nor outside the realm of the core of French *laïcité*, despite the assertions of ‘Secularism versus the new challenges of diversity’ in formulating empirical questions of secularism on France and Europe in general. Diversity was in fact a constitutive premise of the core of French *laïcité* in the Third Republic, and not a part of its ‘reasonable accommodations’. In contemporary France some revisionist critics of *laïcité* are working to revise the strict Third Republican boundary between the ‘premise of diversity’ and ‘law of majorities’, seeking to bring together these opposing poles by turning diversity into religious diversity, and religious diversity into a sociological category. This would demand a move from religion as a general category to religion as a designation of particular faiths. It would directly or indirectly open the way for an institutional politics of religion(s) as the cement of society, a political position which was defeated in the making of both the 1882 and 1905 laws. This comparative historical diagnosis begs a reformulation of questions on the subject not only in France, but in Europe at large.

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Notes

1. ‘The new challenges of diversity’ are very often traced to immigration; however, making such a direct connection not only ignores a political sphere which articulates immigration in terms of a new challenge of diversity, but also sidesteps particular details such as the making of the demographic category ‘immigrant’ (Bertaux, 2011; 2016). For the links between the secularism–diversity debate and the liberalism–multiculturalism debate see Akan (2003).
2. All translations are mine.
3. The bilateral agreements of the Catholic Church with nation-states for managing the place of Catholicism within the law and borders of national sovereignty.
4. The separation law did not apply in the *départements* of Algeria.
5. Bert belonged to the parliamentary political group Extrême-gauche until 1876 and to the Union républicaine afterwards.

6. The smallest administrative division in France.
7. I have counted the 1902 Chamber from the *Journal officiel* according to the political group affiliations in the web archives of the French National Assembly.

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